

In re Application of:
Thomas Maurer et al.
Application No.: 09/647,304
Filed: September 27, 2000
Page 8

PATENT
Docket No.: EYEM1100

REMARKS

In the pending Office Action, claims 10 and 12 were objected to for minor informalities, which are corrected in this amendment. Claims 1-3, 6-11, and 13 were rejected under 35 U.S.C. § 102(a) as allegedly anticipated by a PCT publication by Maurer et al. (WO 99/53443). Claim 12 was rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 6,839,000 to Davis, Jr. et al. Claims 4 and 5 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over the Maurer et al. (WO 99/53443) publication in view of a publication to Wurtz.

Applicants respectfully traverse each of the rejections and respectfully request reconsideration of this application in light of the following remarks.

The rejection of claims 1-3, 6-11, and 13 as allegedly anticipated by the Maurer et al. (WO 99/53443) publication is respectfully traversed. The Maurer et al. (WO 99/53443) publication has a publication date of October 21, 1999. The above-identified application, as amended, claims a chain of priority to U.S. Provisional Application No. 60/081,615, filed April 13, 1998. See attached Filing Receipt for the above-identified application. The relevant disclosure of the above-identified application is identical to the disclosure of U.S. Provisional Application No. 60/081,615. Accordingly, the Maurer et al. (WO 99/53443) publication is not an appropriate prior art reference under 35 U.S.C. § 102(a) because the Maurer et al. (WO 99/53443) publication was not published before the priority date of the above-identified application. For these reasons, the rejection of claims 1-3, 6-11, and 13, under 35 U.S.C. § 102(a), is improper, and claims 1-3, 6-11, and 13 should now be allowed.

The rejection of claims 4 and 5 as allegedly unpatentable over the Maurer et al. (WO 99/53443) publication in view of a publication to Wurtz. is respectfully traversed. The Maurer et al. (WO 99/53443) publication has a publication date of October 21, 1999. The above-identified application, as amended, claims a chain of priority to U.S. Provisional Application No. 60/081,615, filed April 13, 1998. See attached Filing Receipt for the above-identified

In re Application of:
Thomas Maurer et al.
Application No.: 09/647,304
Filed: September 27, 2000
Page 9

PATENT
Docket No.: EYEM1100

application. The relevant disclosure of the above-identified application is identical to the disclosure of U.S. Provisional Application No. 60/081,615. Accordingly, the Maurer et al. (WO 99/53443) publication is not an appropriate prior art reference under 35 U.S.C. § 103(a) because the Maurer et al. (WO 99/53443) publication was not published before the priority date of the above-identified application. Further, the Wurtz publication fails to disclose or suggest all of the features recited in claims 4 and 5. For these reasons, the rejection of claims 4 and 5, under 35 U.S.C. § 103(a), is improper, and claims 4 and 5 should now be allowed.

Claim 12 has been amended to depend on independent claim 1. For the reasons given above for claim 1, claim 12 recites patentable features and should now be allowed.

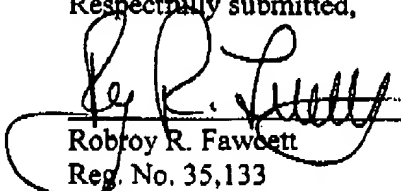
New claims 14-27 are supported in the specification at page 10, line 9 through page 11, line 20.

CONCLUSION

In view of the above amendments and remarks, reconsideration and prompt evaluation of all pending claims are respectfully requested. If any questions or issues remain, the Examiner is invited to contact the undersigned at the telephone number set forth below so that prosecution of this application can proceed in an expeditious fashion.

Respectfully submitted,

Date: December 15, 2003


Robroy R. Fawcett
Reg. No. 35,133
Telephone: (760) 738-7005
Facsimile: (775) 255-6419

1576 Katella Way
Escondido, California 92027